

Commonwealth of Massachusetts  
Department of Telecommunications and Energy  
Fitchburg Gas and Electric Light Company  
D.T.E. 03-09  
Responses to Attorney General's First Set Of Information Requests

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**Request No. AG-1-1:**

Referring to the Company's Initial Comments, Page 10, please state the date(s) when the Company notified the Department about its interest in and transactions with Enermetrix and describe the manner by which the Company notified the Department. Please provide copies of all documents and correspondence evidencing the Company's notification to the Department.

**Response:**

FG&E informed the Department of its investment in the predecessor of Enermetrix, North American Power Brokers, Inc. ("NAP"), by letter of March 26, 1999, notifying the Department of NAP's application to the Federal Communications Commission ("FCC") seeking exempt telecommunications company status under Section 34 of the Public Utility Holding Company Act of 1935, as amended by Section 103 of the Telecommunications Act of 1996. See Attachment AG-1-1(1) which is a printout of an electronic copy of the March 26, 1999 letter.

FG&E first discussed its potential use of Enermetrix to conduct its default service solicitation in meetings and conversations with the Department Staff in the summer of 2001. Mr. Mark Collin also notified the Department Staff by telephone of its intent to use Enermetrix for its then pending default solicitation in September 2001. The Company is not aware of any documents or correspondence evidencing the company's notification to the Department regarding Enermetrix.

On October 3, 2001, FG&E made two filings to the Department under separate cover sheets – one filing contained the results of FG&E's Request for Solicitations ("RFP Filing"), the other contained new tariffs and rates being filed for approval reflecting the new default service supply ("Rate Filing"). In the cover sheets to both filings, in the second paragraph of each, FG&E discussed the use of Enermetrix in conducting the RFP solicitation. In the Introduction section of the RFP Filing, FG&E clearly described to the Department that it had Enermetrix issue the RFP and manage the solicitation. Assistant Attorney General Alexander Cochis was provided with copies of these filings, including all confidential materials pursuant to a Nondisclosure Agreement between FG&E and the Attorney General. See Attachment AG-1-1 (2).

On April 9, 2002, FG&E made two filings to the Department under separate cover sheets – FG&E's RFP Filing and FG&E's Rate Filing. In the cover sheets to both

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filings, in the second paragraph of each, FG&E again discussed the use of Enermetrix in conducting the RFP solicitation. Again, in the Introduction section of the RFP Filing, FG&E clearly described that it had Enermetrix issue the RFP and manage the solicitation. Assistant Attorney General Alexander Cochis was provided with copies of these filings, including all confidential materials pursuant to a Nondisclosure Agreement. See Attachment AG-1-1 (3).

**Person Responsible: Laurence M. Brock and David K. Foote**

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**Request No. AG-1-2:**

Referring to the Company's Initial Comments, Page 10 and Transcript, Pages 11-12, please state whether the Company notified the Attorney General of its interest in and transactions with Enermetrix. If the Company provided notification to the Attorney General, please state the date(s) of the notification and describe the manner by which the Company notified the Attorney General. Please provide copies of all documents and correspondence evidencing the Company's notification to the Attorney General.

**Response:**

As indicated in response AG-1-1, the Attorney General was provided a copy of the filings with the Department which clearly disclosed the use of Enermetrix for the fall 2001 and spring 2002 Default Service solicitation. These filings were made on October 3, 2001 and April 9, 2002.

As indicated in the transcript, since 1999 Unitil Corporation's relationship with Enermetrix has been fully disclosed in its public reporting documents through its 10K and annual reports, which documents are routinely requested by and provided to the Attorney General in proceedings before the Department.

While FG&E has not been able to determine when the Attorney General first received notice of Unitil's investment in Enermetrix, it appears that the Attorney General knew of Unitil's ownership of Enermetrix based on a filing in June 2001. Attachment AG-1-2 is a letter filed by the Attorney General on June 14, 2001 regarding Competitive Market Initiatives. In this letter, the Attorney General comments that the Department must carefully scrutinize Matchmaker programs or similar programs from Western Massachusetts and FG&E because they have unregulated competitive affiliates. The Attorney General goes on to say that Unitil recommends adopting a market-based solution, such as its affiliate Usource, which brings customers to the Enermetrix Exchange and matches customers and suppliers through a blind auction process. The Attorney General letter indicates the Unitil proposal raises concern since "Unitil proposes that Usource, the company's energy brokerage business, function as a broker to bring FG&E customers to the Enermetrix exchange, an entity in which Unitil has a financial interest."

**Person Responsible: Laurence M. Brock**

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**Request No. AG-1-3:**

Referring to Exh. FGE-DKF-I, Pages 6-7 of 9, please state whether any of the new bidders were successful in their bids for the Company's Default Service.

**Response:**

One of the new bidders in the September 2001 solicitation was the successful supplier for both the large and small customer Default services beginning December 2001. That same supplier was the winning bidder for the large Default Service in the March 2002 solicitation for service beginning June, 2002.

**Person Responsible: David K. Foote**

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**Request No. AG-1-4:**

Referring to Exh. LMB-1, Page 6 of 12, please describe the “improved commercial terms” Unitil received in its use of Enermetrix software.

**Response:**

Unitil (the “Company”) sold its investment in Enermetrix in April 2002. In the transaction, Enermetrix repurchased all of the Enermetrix equity securities held by Unitil. As inducements to Unitil to sell its equity positions in Enermetrix, Unitil received cash payments and commercial considerations, including:

- 1)** A perpetual license (access to a buying seat) on the Enermetrix Network at the current annual maintenance fees.
- 2)** A software upgrade, including installation fees, to release 4.0 of the Enermetrix Network.
- 3)** Prior to any sale, transfer or termination of the Enermetrix Network by Enermetrix and its successors (including any acquirer of the Platform), a right of first refusal to purchase the Network at the price which is proposed for the transfer or sale.

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**Request No. AG-1-5:**

Referring to Exh. LMB-1, Page 11 of 12, please state whether any employees, officers or directors of Unitil or any of its affiliates have held any positions with any of the 30 investors referenced by the Company.

**Response:**

No employees, officers or directors of Unitil held any positions with any of the 30 investors in Enermetrix referenced by the Company.

**Person Responsible: Laurence M. Brock**

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**Request No. AG-1-6:**

Referring to Exh. LMB-I, Page 11 of 12, please state whether any employees, officers or directors of the 30 investors referenced by the Company have held any positions with Unitil or any of its affiliates.

**Response:**

No employees, officers or directors of the 30 investors in Enermetrix referenced by the Company held any positions with Unitil or any of its affiliates.

**Person Responsible: Laurence M. Brock**



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**Request No. AG-1-7:**

Referring to Exh. LMB-1, Schedule LMB-2, please state whether any employees, officers or directors of Enermetrix have held have held any positions with Unitil or any of its affiliates.

**Response:**

With the exception of Robert Schoenberger and James Daly, no employees, officers or directors of Enermetrix have held any positions with Unitil or any of its affiliates. Mr. Schoenberger was a director of Enermetrix and the Chairman and CEO of Unitil Corporation, between 1999 and 2002. Mr. Daly was a director of Enermetrix and a Vice President of Unitil Service Corp. in 1999. In 2000, Mr. Daly left Unitil and became a Vice President of Enermetrix.

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**Request No. AG-1-8:**

Referring to Exh. LMB- I, Page 11 of 12, please state whether Unitil or any of its affiliates has had any business relationship, including sale or provision of any goods or services, with any of the 30 investors referenced by the Company.

**Response:**

Neither Unitil nor any of its affiliates has had any business relationship, including sale or provision of any goods or services, with any of the 30 investors in Enermetrix referenced by the Company.

**Person Responsible: Laurence M. Brock**

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**Request No. AG-1-9:**

Referring to Exh. LMB-1, Page 11 of 12 and the Company's response in DTE-I2, please reconcile the listing of entities with an ownership interest in Enermetrix with the Company's testimony that there were approximately 30 investors. Please provide a complete list of all investors that had an ownership interest in Enermetrix during the period of Unitil's ownership in Enermetrix.

**Response:**

The listing of entities with an ownership interest in Enermetrix provided with the Company's testimony shows 12 investors/entities separately listed and another category labeled "Other employees/individuals/investors" which is placeholder for the equity shares owned by many smaller investors during the period. To reconcile to the Company's statement that there were approximately 30 investors would require a detailed list of the many smaller investors in Enermetrix during the period 1998 to 2002 and the Company does not have such a list. As stated, the Company is aware from discussions and materials received from Enermetrix that there were at least 30 investors in Enermetrix during 2001 and 2002.

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**Request No. AG-1-10:**

Referring to the Company's response in DTE-1-5, Attachment 1-5(1), please describe the prior (ownership interest) and current (non-ownership interest) relationship between Enermetrix and USource.

**Response:**

Usource has never had an ownership interest in Enermetrix. Unitil Corporation owned a minority interest in Enermetrix until April 2002. Since 1998, Usource owned a license to use the Enermetrix Retail Energy Exchange as a "Buy-Side" seat member. As such, the relationship between Usource and Enermetrix has always remained the same: Usource is a retail energy broker who has a license to post buy orders on the Enermetrix Exchange. Usource never owned any equity of Enermetrix.

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**Request No. AG-1-11:**

Referring to the Company's response in DTE-1-9, please state whether URI and USource continue to use the Enermetrix Exchange. Please state the expiration date of the REX License.

**Response:**

URI formally assigned its license to use the Enermetrix Exchange to Usource in June 2000 and ceased to be a licensee of the REX at that point. The expiration date of the original REX license was May 2003. That license was amended in April 2002 to provide a perpetual license to Usource to access a buy-side seat on the REX exchange. Using the Exchange continues to be an option for Usource in brokering its energy transactions.

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**Request No. AG-1-12:**

Referring to Exh. LMB-I, Page 6 of 12, Lines 2-4, 15-16 and the Company's response in DTE-1-I0, please explain whether Unitil sold its investment in Enermetrix in March **or** April of 2002.

**Response:**

The actual closing and cash settlement date of the Enermetrix stock sale and redemption was April 9, 2002.

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**Request No. AG-1-13:**

Referring to the Company's response in DTE-1-5, Attachment 1-5 (3), Page 7, please provide a summary of Unitil's agreement with Duquesne Enterprises, Inc., and also provide an executed copy of that agreement together with any amendments thereto.

**Response:**

In December 2001, Usource (not Unitil) entered into an agreement with OnDemand Energy, Inc. and ValuSource Energy Services, Inc, subsidiaries of Duquesne Enterprises, Inc. ("DQE"), to acquire certain lists of customers. At the time, DQE was reorganizing its businesses and had decided to offer these customers to Usource for a nominal fee. A copy of the agreement is attached as Attachment AG-1-13.

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**Request No. AG-1-14:**

Please provide a monthly transaction summary of all goods or services supplied by Enermetrix to Unitil or any of its affiliates. Include the date, the goods or services provided, the dollar amount for the goods or services, and the party providing and receiving the goods or services.

**Response:**

Attachment AG-1-14 shows the detail list of payments received by Usource from Enermetrix. Usource received payments from Enermetrix for energy brokering transaction fees and reimbursements for advertising and web software development programs where both Usource and Enermetrix shared expenditures on the projects.

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**Request No. AG-1-15:**

Please provide a monthly transaction summary of all goods or services supplied by Unitil or any of its affiliates to Enermetrix. Include the date, the goods or services provided, the dollar amount for the goods or services, and the party providing and receiving the goods or services.

**Response:**

Attachment AG-1-15 shows the detail list of payments paid by Unitil Resources, Inc. and Usource to Enermetrix (formerly known as North American Power Brokers). Please note that this list excludes payments related to Unitil's investment in Enermetrix.

As identified on Attachment AG-1-15, the payments made by Unitil Resources, Inc. and Usource to Enermetrix were for various expenditures including customer lists, software licenses, software development and maintenance fees, consulting services and other miscellaneous reimbursable expenses.

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**Request No. AG-1-16:**

Referring to the Company's response in DTE-I-7, Attachment 1-7 (l)(**confidential**), Pages 15, 34, and 38 of 40, please describe Unitil's relationship with Duquesne Enterprises, Inc. Has Unitil or any of its affiliates held or otherwise conducted private discussions or meetings with Duquesne relating to Enermetrix matters in the absence of other Enermetrix Board members? If so, please provide the dates of all discussions and meetings and copies of all dialogue and communication between the parties.

**Response:**

Duquesne Enterprises, Inc., ("DQE"), was an early investor in Enermetrix. DQE and Unitil were both investors in Enermetrix starting with the purchase, by both, of Series B Preferred Stock in March 1999. Unitil's only relationship with DQE was as a co-investor in Enermetrix and mutual holder of the Series B Preferred Stock. Following discussions among the Enermetrix investors about a possible merger of Enermetrix (with CES International, Inc.) in late 1991, DQE and Unitil (and other investors) ultimately sold their equity positions back to Enermetrix in April 2002. Owners of Enermetrix Series B Preferred Stock had certain investor rights, including a right to "put" the Series B shares back to Enermetrix at certain dates. That Series B "put" right was the topic of several phone calls and e-mails between DQE and Unitil in late 2001 and early 2002. There were many instances of phone calls between Unitil and other investors in Enermetrix, including DQE, where not all investors or Enermetrix board members were engaged in the conversation. And, there were many conversations between/among all these other "investor" parties where Unitil was not present. Enermetrix Board meetings were the only forum where all were usually present and minutes were kept by Enermetrix.

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**Request No. AG-1-17:**

Referring to the Company's response in DTE-1-7, Attachment 1-7 (1) **(confidential)**, Page 15 of 40, please provide an update on Unitil's negotiations with Enermetrix regarding "taking over their customer base in NY."

**Response:**

Unitil Resources, Inc. purchased the "NY Customer List" of North American Power Brokers, Inc (predecessor to Enermetrix) in May of 1999.

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**Request No. AG-1-18:**

Referring to the Company's response in DTE-I-7, Attachment 1-7 (1)(**confidential**), Page 16 of 40, please provide a summary of the "voting rights" and related voting power of each member or group of members of the Board of Directors. In this summary, please reference the total number of votes eligible to be cast and the related percentage of voting power afforded to each voting member or group of members of the Board of Directors. Please provide copies of any amendments to these voting rights.

**Response:**

As indicated in Attachment 1-7, page 16 of 40; after the closing of the Series B Preferred Stock financing round, there were 8 Board members and 5 board votes authorized. See the table below. Also, from the attachment referenced above is this summary "...the Board of Directors of the Company will be composed of John Gaus and Jeff DeWeese who combined shall cast one vote, two representatives from Duquesne Enterprises, who combined shall cast one vote, and two representatives from Unitil Corporation, who combined shall cast one vote. The Board of Directors, after the closing and before September 1, 1999 shall add two additional, outside Board Members who shall cast one vote each.

As of the Series B Closing at March 25, 1999			
PERSON/ENTITY	BOARD SEAT(S)	VOTES	VOTING %
JG & JD	2	1	20%
DQE	2	1	20%
Unitil	2	1	20%
Outside Directors	2	2	40%
Total	8	5	100%

After the Series C financing round in November 1999, Unitil held 1 of 8 Board seats and 1 vote, or 12.5% of the total voting %.

After the Series D financing round in December 2000, Unitil held 1 of 10 Board seats and 1 vote, or 10% of the total voting %.

**Person Responsible: Laurence M. Brock**

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**Request No. AG-1-19:**

Referring to the Company's response in DTE-I-7, Attachment 1-7 (1)(**confidential**), Page 16 of 40, please state the dates when additional board members were added and the voting power allotted to the additional board members. For each set of additions of members to the Board of Directors, please calculate the percentage of voting power afforded to each member or group of members of the Board of Directors.

**Response:**

Refer to the Response to AG-1-18

After the Series B financing round in March 1999, Unitil held 1 of 8 Board seats and 1 of 5 votes, or 20.0% of the total voting %.

After the Series C financing round in November 1999, Unitil held 1 of 8 Board seats and 1 of 8 votes, or 12.5% of the total voting %.

After the Series D financing round in December 2000, Unitil held 1 of 10 Board seats and 1 of 10 votes, or 10% of the total voting %.

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**Request No. AG-1-20:**

Referring to the Company's response in DTE-I-7, Attachment 1-7 (1)(**confidential**), Page 16 of 40 and Exh. LMB-I, Schedule LMB-I, please provide "Term Sheet" copies for the Series C and Series D stock

**Response:**

Attachments AG-1-20-1 and AG-1-20-2 represent the term sheets for the Series C and Series D financing rounds respectively. The term sheets represent proposed terms of the closing. The actual financing closing documents are more detailed as to transaction particulars and actual amounts raised in the financing round.

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**Request No. AG-1-21:**

Referring to the Company's response in DTE- 1-7, Attachment 1-7  
(1)(**confidential**), Page 18 of 40, please provide copies the final Stock Purchase Agreement.

**Response:**

Attachment AG-1-21-1 is the Company's copy of the Series B Preferred Stock Purchase Agreement dated March 25, 1999.

**Person Responsible: Laurence M. Brock**



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**Request No. AG-1-22:**

Referring to the Company's response in DTE-1-7, Attachment 1-7  
(1)(confidential), Page 22 of 40, please explain Until's reference to Enermetrix

**Response:**

The reference to Enermetrix on this page is part of a discussion of the potential value and risk factors associated with Until's investment in Enermetrix. At this time, Enermetrix had completed the Series C financing round during the previous month and was beginning to organize investors for a Series D round of financing. Specifically, a reference is made to the possibility of Until losing its position as a member of the Enermetrix Board of Directors due to the fact that Until's investment in Enermetrix was and would be further diluted as new investors put larger dollars into Enermetrix.

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**Request No. AG-1-23:**

Referring to the Company's response in DTE-1-7, Attachment 1-7 (1)(**confidential**), Page 22 of 40, please list and describe "all new business relationships and potential partners" that Unitil developed as a result of its dealings with Enermetrix.

**Response:**

The reference is "Unitil's dealings with Enermetrix.com have introduced the Company to many new business relationships and potential partners with expertise and a shared economic interest in energy related e-commerce." This is a somewhat global reference and refers to entities including those other investors and directors in Enermetrix as well as contacts made at seminars and conferences on energy deregulation.

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**Request No. AG-1-24:**

Referring to the Company's response in DTE-I-7, Attachment 1-7  
(1)(**confidential**), Page 25 of 40, please specify which "exit strategy" Unitil  
selected.

**Response:**

The "exit strategy" discussion on this page lists several alternatives to sell Unitil's investment in Enermetrix assuming there was a proposed merger or public offering of Enermetrix. Ultimately, Unitil (and several other shareholders) chose to sell its investment in Enermetrix back to Enermetrix just prior to the merger of Enermetrix into CES International, Inc.

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**Request No. AG-1-25:**

Referring to the Company's response in DTE-1-7, Attachment 1-7 (1)(**confidential**), Page 34 of 40, please describe Until's right to block or modify mergers and provide copies of all documents evidencing this right

**Response:**

Here, there is a discussion of a proposed merger of Enermetrix with CES International, Inc. The reference is to "... the rights held by Until & DQE which could block/modify, the proposed merger." This is a reference to the stock redemption rights of the Series B Preferred Stock holders which would allow the Series B shareholders to redeem the Series B preferred at any time after May 5, 2002. If the redemption rights were exercised, they would have to be satisfied before any proposed merger or sale of Enermetrix could be consummated. That redemption transaction would have modified the merger proposal presented to Enermetrix by CES International, Inc. Eventually, Enermetrix did merge with CES. The rights are described in the Second Amended and Restated Certificate of Incorporation of North American Power brokers, Inc. and is attached as Attachment AG-1-25.

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**Request No. AG-1-26:**

Referring to the Company's response in DTE-1-7, Attachment 1-7 (1)(**confidential**), Page 5 of 40, did the bids arising from FG&E's two solicitations though Enermetrix fulfill or other count towards Unitil's obligation to "ensure at least 10 active electric and 10 active gas suppliers bidding on loads['?']"

**Response:**

No. The exhibit being referenced here contains a "typo." It was not Unitil's obligation to "ensure at least 10 active electric and 10 active gas suppliers bidding on loads." Rather it was NAP's (North American Power Broker's) obligation to "ensure at least 10 active electric and 10 active gas suppliers bidding on loads" or "NAP's share of fees is reduced by 10%..." The reference is to a requirement that NAP, the Exchange Manager, is responsible to encourage as many suppliers as possible to use the exchange to bid on energy fulfillment contracts in order to maintain a true competitive pricing environment where prospective energy purchasers could shop.

**Person Responsible: Laurence M. Brock**